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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,334	08/01/2003	Klaus G. Carl	2003P06991 US	3581

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EXAMINER

GARY, ERIKA A

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,334

Applicant(s)

CARL ET AL.

Examiner

Erika A. Gary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4, 5, 10-13, 18, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tayloe et al., US Patent Number 5,095,500 (hereinafter Tayloe).

Regarding claims 1, 11, and 19, Tayloe discloses a wireless communications network comprising: at least one network cell; a base transceiver station in each said network cell; a plurality of mobile subscriber units, said MS units in each said network cell communicating wireless with said BTS; and a position location receiver in at least one MS unit, said at least one MS unit being a positioned MS unit selectively providing located reception measurements to said BTS, located reception measurements including a current MS unit location with current signal reception measurements [abstract; col. 3: lines 43-46; col. 4: lines 8-11, 28-36, 46-50; col. 4: lines 46-50].

Regarding claims 2 and 20, Tayloe discloses said at least one cell is a plurality of cells, said at least one positioned MS unit is a plurality of positioned MS units providing

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current location signal reception measurements to a local said BTS at a selected time [col. 4: lines 46-50].

Regarding claims 4 and 18, Tayloe discloses the position location receiver is a global positioning receiver [col. 3: lines 43-46].

Regarding claims 5, 12, and 22, Tayloe discloses a reception level database predicting reception levels at locations within each network cell, said network updating said reception level database responsive to said located reception measurements [col. 5: lines 40-52].

Regarding claims 10 and 18, it is inherent for a wireless communication network to comprise a GSM network. Further, the type of networks lacks criticality to the overall function of the invention.

Regarding claim 13, Tayloe discloses the plurality of MS units comprise a PDA with wireless connectivity, a cellular phone, a notebook computer, a tablet computer and a text messaging device [col. 2: lines 47-49].

Regarding claim 21, Tayloe discloses the selected time is automatically selected [col. 4: lines 46-50].

3. Claims 1, 2, 4, 5, 10-13, 18, 19, 21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Jensen, US Patent Application Publication Number 2002/0009992 (hereinafter Jensen).

Regarding claims 1, 11, and 19, Jensen discloses a wireless communications network comprising: at least one network cell; a base transceiver station in each said network cell; a plurality of mobile subscriber units, said MS units in each said network cell communicating wireless with said BTS; and a position location receiver in at least one MS unit, said at least one MS unit being a positioned MS unit selectively providing located reception measurements to said BTS, located reception measurements including a current MS unit location with current signal reception measurements [abstract; paragraphs 0018, 0032, 0036].

Regarding claims 2 and 20, Jensen discloses said at least one cell is a plurality of cells, said at least one positioned MS unit is a plurality of positioned MS units providing current location signal reception measurements to a local said BTS at a selected time [paragraph 0041 (selected time is real-time continuous monitoring)].

Regarding claims 4 and 18, Jensen discloses the position location receiver is a global positioning receiver [paragraph 0014].

Regarding claims 5, 12, and 22, Jensen discloses a reception level database predicting reception levels at locations within each network cell, said network updating said reception level database responsive to said located reception measurements [paragraphs 0018, 0024, 0039-0042].

Regarding claims 10 and 18, it is inherent for a wireless communication network to comprise a GSM network. Further, the type of networks lacks criticality to the overall function of the invention.

Regarding claim 13, Jensen discloses the plurality of MS units comprise a PDA with wireless connectivity, a cellular phone, a notebook computer, a tablet computer and a text messaging device [fig. 4: refs. 17, 19].

Regarding claim 21, Jensen discloses the selected time is automatically selected [paragraph 0041].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen.

Regarding claims 3 and 20, Jensen does not specifically disclose that the local BTS selects the selected time. However, the Examiner takes Official Notice that it is well known in the art to program a BTS to select times in which it should receive measurements from mobile stations. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Jensen to include this feature in order to obtain sufficient reception measurements from the mobile stations.

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6. Claims 6-9, 14-17, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen in view of Sheynblat et al., US Patent Number 6,677,894 (hereinafter Sheynblat).

Regarding claims 6, 14, and 23, Jensen does not specifically disclose providing location specific information to the positioned MS unit. However, Sheynblat teaches this limitation. Sheynblat discloses sending location specific information to a positioned mobile unit [col. 17: lines 24-29].

Regarding claims 7, 8, 15, 16, 24 and 25, Sheynblat discloses the location specific information indicated local commercial activities or local hazards [col. 18: lines 35-58].

Regarding claims 9, 17, and 26, Sheynblat discloses the location specific information is provided as short message service messages [col. 7: lines 41-42].

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Jensen to include Sheynblat as providing location specific information to positioned mobile units is well known in the art to provide convenient information to the mobile unit user.

Response to Arguments

7. Applicant's arguments filed July 29, 2005 have been fully considered but they are not persuasive. Applicant argues that Tayloe teaches a wireless network wherein a BTS uses triangulation to determine the location of mobile units and to measure signal strength of each. However, the Examiner respectfully disagrees and maintains that

Tayloe teaches the claimed invention as the mobile unit location and corresponding signal quality data are passed to the base station [col. 4: lines 28-32]. Tayloe also teaches that the mobile unit location can be determined by global positioning systems [col. 3: lines 43-46].

Applicant argues that Jensen teaches a wireless network wherein a BTS uses triangulation to determine the location of mobile units. However, the Examiner respectfully disagrees and maintains that Jensen teaches the claimed invention as the mobile unit includes a GPS receiver to determine its location and then transmits this information to the network [paragraph 0014]. Jensen also teaches that the signal strength information is correlated with the location of the mobile unit [paragraphs 0018, 0036].

Applicant also argues the combination of Jensen and Sheynblat. However, Sheynblat is solely relied upon to provide evidence that providing location specific information to a mobile unit is well known and common in the art. Both references teach using GPS to locate a mobile unit and are thus combinable.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG
September 21, 2005


ERIKA A. GARY
PRIMARY EXAMINER